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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/998,750

11/30/2001

Judith A. Bayer

9998

7009

26890

7590

10/04/2006

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EXAMINER

LAstra, DANIEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,750

Applicant(s)

BAYER ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-21 have been examined. Application 09/998,750 (AUTOMATED PROMOTION RESPONSE MODELING IN A CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM) has a filing date 11/30/2001.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present application, claims 1-21 do not recite a "concrete and tangible result". A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed.Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. Applicant's claims are simply manipulating and doing mathematical operations without a "concrete and tangible result".

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

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was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant's specification simply recites the language of the claims but is not enabling in how to determine the likelihood that a customer would respond to a future advertisement campaign.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims recites an independent and a dependent variable but do not clearly describe the difference between said variables. For purpose of art rejection, said limitation would be interpreted as users profile data. Also, said claims recite "estimating a coefficient for each of the identified related independent and dependent variables". For purpose of art rejection, said limitation would be interpreted as an scalar obtained from a function. Claim 5 recites "statistical best fit of known responder versus non-responder". For purpose of art rejection, said limitation would be interpreted as meaning determining a prediction of customers that would respond to an advertising campaign.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Cook (US 6,631,360).

Claim 1, Cook teaches:

A computer-implemented method of creating customer promotion response models for use in customer relationship marketing, comprising.

(a) defining an input data set for the response models, wherein the input data set is comprised of one or more Analytic Variables that are subdivided into independent and dependent variables (see col 12, lines 5-45) ;

(b) splitting the input data set into a test sample and a validation sample (see col 10, line 55 – col 11, line 20);

(c) identifying related independent and dependent variables using the test sample (see col 12, lines 5-45);

(d) identifying a Transformation Type for each of the identified related independent and dependent variables (see col 11, lines 20-65 “estimated density function”);

(e) estimating a Coefficient for each of the identified related independent and dependent variables (see col 13, lines 5-45 “scalar is obtained”;

(f) generating a Model Equation for each of the identified related independent and dependent variables using the identified Transformation Type and estimated Coefficient (see col 13, lines 5-45 "Gaussian Density function");

(g) validating the generated Model Equation by applying it to the validation sample (see col 11, lines 5-20 "calibration"; and

(h) scoring customers retrieved from a database using the validated Model Equation (see col 13, lines 25-35 "scalar is obtained"; figure 12).

Claim 2, Cook teaches:

The method of claim 1, wherein the Transformation Type is a mathematical operation that identifies an association between the identified related independent and dependent variables (see col 12, lines 5-45).

Claim 3, Cook teaches:

The method of claim 1, wherein the Coefficient is a relative measure of the identified related independent and dependent variables' contributions to a likelihood of response (see col 13, lines 25-45).

Claim 4, Cook teaches:

The method of claim 1, wherein the Coefficient's sign indicates whether the independent variable is positively or negatively correlated with the dependent variable (see col 12, lines 5-45).

Claim 5, Cook teaches:

The method of claim 1, wherein the Model Equation is a mathematical representation of the association of the identified related independent and dependent

variables that result in the statistical best fit of known responders versus non-responders (see col 12, lines 5-12).

Claim 6, Cook teaches:

The method of claim 1, wherein the validating step (g) further comprises applying the generated Model Equation to the validation sample in order to predict a likelihood of response as compared to an actual response in the validation sample (see col 13, lines 5-45).

Claim 7, Cook teaches:

The method of claim 1, wherein the scoring step (h) further comprises applying the validated Model Equation to the customers retrieved from the database in order to predict responses from the customers in a future promotional campaign (see col 13, lines 5-45).

Claims 8-14 are written as system claims but contains the same limitations as claims 1-7, therefore, the same rejection is applied.

Claims 15-21 are written as article of manufacturer claims but contains the same limitations as claims 1-7, therefore, the same rejection is applied.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
September 23, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER